United Nations

A/55/973

General Assembly

Distr.: General
1 June 2001
English
Original: Spanish

Fifty-fifth session
Agenda item 43
The situation in Central America: procedures for the establishment of a firm and lasting peace and progress in fashioning a region of peace, freedom, democracy and development

United Nations Verification Mission in Guatemala

Report of the Secretary-General

1. This is the sixth report on the verification of compliance with the agreements signed by the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG), submitted pursuant to the mandate given to the United Nations Verification Mission in Guatemala (MINUGUA) by the General Assembly in resolution 51/198 B of 27 March 1997. This mandate was extended until 31 December 2001 by resolution 55/177 of 19 December 2000, in which the General Assembly repeated its request that I should keep it informed. This report covers the period from 1 July 2000 to 31 March 2001.

2. On 31 July 2000, I informed the President of the General Assembly (A/54/950) that I had appointed Mr. Gerd Merrem as my Special Representative in Guatemala and Head of MINUGUA, effective 1 August 2000. I wish to thank Mr. Juan Pablo Corlazzoli, Deputy Head of MINUGUA, for his dedicated work during the time when he served as my Special Representative and acting Head of Mission.

3. In my latest report to the General Assembly (A/55/389), I transmitted the parties' request that the United Nations continue its support for the peace process until 2003, recommended that MINUGUA operations begin to be scaled down and pointed to the need to increase coordination within the United Nations system in Guatemala and with other international actors, through operational arrangements, to ensure that they mainstream the peace agenda in their activities. Accordingly, in November 2000 the first reduction was made in MINUGUA operations and the Mission reconfigured its presence in the country, with a 45-per-cent decrease in staff both at headquarters and in the regional offices.

I. Introduction

4. The calendar established in the Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements (A/51/796-S/1997/114, annex I) for the period 1997-2000 expired in December 2000. After four years of implementation of the agreements, a number of commitments on the peace agenda are still in the process of implementation or have not been implemented. The Commission to Follow-up the Implementation of the Peace Agreements therefore completely rescheduled pending commitments in an implementation timetable for 2000-2004, which recognizes that the basis of the Timetable Agreement and of the peace agreements as a whole

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remains fully valid and urges the authorities and society to endeavour to comply with them.

5. The ceremony at which the rescheduled implementation timetable for 2000-2004 was signed and presented took place on 12 December 2000. The President of the Republic, the President of the Congress and the President of the judiciary signed as honorary witnesses and stated that full implementation of the new timetable, through the combined efforts of the State and civil society, would give considerable impetus to Guatemala's democratic development. I am encouraged by this renewed commitment to peace, this time expressed by the national authorities at the highest level and reiterated on 14 January 2001 by the President of the Republic in a speech marking the end of his first year in government.

II. Overall context

6. As I said in earlier reports, I am deeply concerned that the peace process is still having little impact on the lives of Guatemala's people, a situation which threatens the sustainability and strength of the process and is causing organizations of civil society to mobilize and demand that pending commitments be implemented. I am also concerned at the deterioration in public security, reflected in an increase in crime, in actions by armed criminal groups and in the continuing very serious threats against persons involved in criminal proceedings and intimidation of members of non-governmental human rights organizations. Journalists and other public figures are also affected by this climate of intimidation. The Government must fulfil its commitment to protect individuals and organizations that promote respect for human rights and to ensure that judicial officials and others involved in criminal proceedings are able to act free of pressure, as well as its commitment to investigate, punish and take action to put a stop to all such practices.

7. At the beginning of 2001, an institutional crisis arose as a result of tensions between the legislative branch and the judiciary over the consequences of the possible illegal amendment of a law by the executive committee of the Congress. The crisis worsened when amendments were made to the Act organizing the legislative branch. The Constitutional Court then ruled admissible an action brought by opposition members of the Congress against the amendments to the Act, on grounds that they were unconstitutional, and, as a result of the Court's ruling, some deputies subject to pretrial proceedings left the executive committee. This chain of events caused instability in the main democratic institutions and within the ruling party. It also prompted opposition political parties to set up a consultation mechanism in order to coordinate their actions.

8. The situation of the political parties remains extremely unstable. There were splits within the parties with the greatest numbers of representatives in the Congress, including the ruling party, and a new Unionista bench was created, as well as a parliamentary group calling itself the Unidad Nacional de la Esperanza. During the same period, URNG underwent a process of internal restructuring which limited its ability to have an impact in the forums created by the peace agreements.

9. Conflicting viewpoints and signs of disagreement among different social groups are part and parcel of the democratic process. Nevertheless, I wish to draw attention to the growing social and political polarization and conflict in the country, particularly in the interior. During the period under review, there was an increase in serious local conflicts and the barbarous practice of lynchings persisted, as did serious crimes committed by armed groups of different kinds. In this connection, I welcome the recent establishment of the National Commission for Conflict Resolution and hope that the Commission will receive all the political and technical support it needs to do its important job properly. It is important to ensure, however, that the Commission does not see itself as a substitute for the necessary presence, strength and effectiveness of Government institutions in tackling the problems of public security and social and productive development which are at the heart of the growing level of conflict.

10. During the final months covered by this report, public opinion was rocked by a press campaign accusing senior government officials of corruption and embezzlement. In this context, the financial crisis affecting major high street banks, and their bail-out by the Government, also became public knowledge, prompting various sectors to question the Government's ability to fulfil its commitments under the peace agreements and to prevent the situation from affecting the State's liquidity and the budget lines allocated to the peace process.

11. In February, mounting public concern about a possible institutional breakdown provoked various reactions. In this climate of uncertainty, sectors of society, the Government and the international community began a process of reflection on a strategy that would help to strengthen democracy and to implement the peace agreements. To contribute to the search for a common denominator based on the peace agreements that would win the support of broad sectors of the population, MINUGUA, at the request of the parties, held an extensive round of consultations through which it discovered that there was some readiness on the part of sectors of society to work together on specific issues. The achievement of such consensus and hence the fulfilment of important commitments, including those aimed at bringing about the necessary structural changes for sustainable social and productive development, public participation, strengthening of the political system and modernization of the democratic State could provide the opportunity to reactivate the peace process and make sure that it is irreversible. Among the changes and specific commitments which must be carried out and consolidated are educational reform, promotion of participation through the amendment of the Development Councils Act, promulgation of the Land Registry Act and the commitments pending under the Agreement on Identity and Rights of Indigenous Peoples (A/49/882-S/1995/256, annex).

12. In the context of these consultations, it is worth noting that all the political parties represented in Parliament agree that progress must be made on the major issues still pending under the peace agreements. I wish to emphasize how important it is that all political parties commit themselves actively and unreservedly to the effective implementation of all the peace agreements.

13. I welcome the recent meetings of a wide range of indigenous organizations and leaders to draw up a basic agenda for promoting compliance with the commitments made under the Indigenous Agreement. Giving renewed impetus to this important sector will be central to progress in implementing the Agreement.

14. While I welcome the fact that the peace agreements are still referred to in speeches made by senior government authorities, I am concerned at the scant progress made in implementing them. During the period under review, the Government took a long time to effect the transition and to replace officials in charge of institutions central to the peace process. It also took a long time to formulate public policies; it was late 2000 by the time some sectoral policies were formulated and these are only just beginning to be implemented.

15. An overall assessment of the peace agreements shows that the process of sustainable resettlement and definitive integration of demobilized combatants has not gone far enough and there is still no comprehensive development strategy that would ensure the sustainability of the overall integration of these population groups. In the social development area, huge gaps remain between the indigenous and non-indigenous population, between rural and urban areas and between men and women. The State's social policies must correct these distortions by improving incomes and access to services for the poorest sectors of the population. Moreover, while indicators such as life expectancy, infant mortality and literacy have improved, greater efforts still need to be made.

16. The formulation of public policies on such issues as education, housing and health, which in some cases has involved consultations with civil society, represents significant progress. The implementation of such policies will require not only that ministries assume their sectoral responsibilities but also that the latter be articulated into an overall approach which includes a land management plan involving the actors concerned.

17. With a view to achieving sustainable development of production, the agreements established the need for legal, institutional and financial reforms in order to consolidate a democratic, inclusive, decentralized and participatory State. The latest assessment shows that both the formulation of a policy for sustainable development of production and the creation of institutions capable of promoting it are still in the early stages and that progress has been made on only a few specific issues.

18. Modernization of the State is one of the key elements of the peace agreements, of which modernization of the system of justice is a cornerstone. By creating a Commission on the Strengthening of the Justice System, the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society (A/51/410-S/1996/853, annex) made it possible to conduct an extensive, participatory evaluation of the system, which culminated in a number of important recommendations for reforming

it. The work done by the Commission for Monitoring and Supporting the Strengthening of the Justice System, which has become an important forum for dialogue between civil society and State institutions, is commendable. It has tackled issues such as access to justice for indigenous peoples and the poorest population groups; professionalization of judicial personnel; and the budgetary situation of the justice sector. However, the system's performance is showing no signs of significant structural improvements, especially as regards the investigation of cases of human rights violations, including those that have had a major impact on society, whose solution would help restore public confidence in the justice system.

19. Commitments in the areas of public security, police reform and transformation of the role of the armed forces face the challenges of a society in transition from war to peace. The situation of insecurity and the limitations of the National Civil Police continue to be invoked to justify maintaining an active role for the armed forces in public security tasks. This represents a setback in the demilitarization of public security and is not conducive to the strengthening of either civilian power or the police, whose performance must be improved so that it can do its job properly.

20. Fulfilment of the commitments on the armed forces has been uneven. Progress has been made on such important commitments as their restructuring and deployment, but the commitments on military intelligence and the formulation of a new military doctrine have gone nowhere. The possible reestablishment of some former Voluntary Civil Defence Committees is also cause for concern. MINUGUA is verifying the existence of isolated contacts between serving officers and former members of the Committees and their possible involvement in public security activities.

21. Another major challenge for the modernization of the Guatemalan State is the adoption or amendment of a number of laws. The Follow-up Commission is promoting 18 priority laws, whose importance it emphasized in a letter to the President of the Congress of the Republic. These include amendments to the Municipal Code, a Decentralization Act, the Act organizing the Government Accounting Office, amendments to the Elections and Political Parties Act, the Development Councils Act, the law setting up the Commission for Peace and Harmony and amendments to the Penal Code which would criminalize ethnic discrimination and impose legal penalties for tax evasion and fraud.

22. The peace agreements not only set public spending targets for strategic areas but also provide for their proper implementation. The execution of public spending for 2000 on items related to the peace process was generally satisfactory. However, actual spending by important ministries such as the Ministry of Agriculture, Livestock and Food, the Ministry of Communications, Infrastructure and Housing and the Ministry of Labour and Social Security, as well as some social funds, was unsatisfactory. The targets for sectoral spending as a proportion of Gross Domestic Product (GDP) were met in health and social welfare, education, public security, the judiciary and the Public Prosecutor's Office, but the agreed reduction in spending on the armed forces did not take place. With regard to revenues, the estimated tax burden at the end of 2000 was 9.44 per cent of GDP; if this situation continues, it will be impossible to reach the 12-per-cent target rescheduled for 2002 in the Fiscal Pact. Although major efforts are still being made to reach this target, the current national debate on fiscal issues still does not include the need to ensure that State revenues are sufficient to meet the spending commitments made in the peace agreements.

23. The draft General Budget of State Revenues and Expenditures which the executive branch transmitted to the Congress of the Republic in September 2000 gave priority to spending for peace. The draft underwent significant cuts in the course of its approval by Parliament. This worrisome situation, which threatens the implementation of important peace commitments and their impact on the population, is being closely monitored by MINUGUA.

24. Lastly, the Government requested the suspension of the Consultative Group meeting that had been scheduled for November 2000. This decision was motivated by the significant delay in fulfilling pending commitments, the difficulties in increasing tax collection and the rescheduling carried out by the Follow-up Commission. I consider it essential to make substantial progress in fulfilling the commitments scheduled for 2001 and to begin the process of mobilizing increased national resources in order to fund priority commitments and reschedule the Consultative Group meeting so that it takes place before the end of 2001. This will enable the

international community to once again renew and strengthen its commitment to provide political support to and cooperate with the Guatemalan peace process.

III. Implementation of the peace agreements

25. In the Timetable Agreement, the parties indicated that commitments under the peace agreements could be organized into four thematic areas, namely: (a) resettlement, integration and reconciliation; (b) comprehensive human development; (c) sustainable development of production; and (d) modernization of the democratic State, including strengthening of the capacity for participation and consensus-building of the various components of civil society. This report details the status of implementation of the commitments in each thematic area, adding three elements which cut across the entire peace agenda: indigenous peoples' rights, commitments on women and the strengthening of social participation.

A. Resettlement, integration and reconciliation

26. The sustainable, equitable development of resettlement areas and the productive integration of uprooted and demobilized population groups continue to be the phases of the resettlement and integration process which face major constraints. Although production projects have begun in some communities, they do not at this point constitute the alternative provided for in the Agreement. The political, social and economic integration of these groups, in conditions of safety and dignity, is a matter of importance both for the country and for the consolidation of peace.

27. In November 2000, a further one-year extension of the Special Temporary Act on Personal Documentation was approved because there are still uprooted population groups, especially internally displaced persons and women, who do not have documentation and are therefore unable to obtain credit, land, housing and other social benefits. Unfortunately, the effects of this further extension will not be sufficient unless the authorities promote the documentation process through communities and organizations involved with the issue, train civil registrars and make access to registry offices easier for the population. Four months after the law was extended, there are still legal difficulties in implementing it and, despite some coordination efforts, no major progress can be observed in the provision of documentation to the population concerned.

28. The definitive integration phase for demobilized combatants, in which the bulk of the effort was to be made by the Government, is still moving very slowly. The coordinating team created to provide follow-up for this phase still does not have the legal backing it needs in order to function. Some progress has been made in land and housing projects, but projects related to integration in production, health care for the disabled and exhumation of the bodies of URNG members killed in combat started very late. Projects for the integration in production of communities of uprooted population groups, where almost a third of former combatants have settled, have only just begun. The integration in production of uprooted population groups and the definitive integration of demobilized combatants have also been delayed by the lack of progress in complying with other agreements, especially the Agreement on Social and Economic Aspects and the Agrarian Situation (A/50/956, annex), and, more specifically, the commitments on the implementation of a comprehensive rural development policy that would make it possible to consolidate these processes. The Government must make an effort and show a willingness to expedite these production projects and make them available to the entire reintegrated population and to facilitate the latter's integration in the workforce. It is especially important that the international community continue to support these processes.

29. There has not been the necessary progress on the very important issue of compensation for victims of human rights violations. The Peace Secretariat (SEPAZ) has continued to implement pilot compensation projects in some departments of the country. I trust that the start-up of the dialogue between SEPAZ and the Multi-institutional Forum for Peace and Harmony, comprising organizations of civil society, non-governmental organizations and the Counsel for Human Rights, will promote implementation of this commitment and of the recommendations of the Clarification Commission. Consensus on a national compensation plan should be reached during the first half of 2001 and the plan should be implemented in 2001. In my previous report, I also emphasized the

importance of establishing the Commission for Peace and Harmony as a means of facilitating national reconciliation. It is encouraging to see that this is one of the priorities of the Follow-up Commission and that its establishment is scheduled for 2001.

B. Comprehensive human development

30. Firm and lasting peace must be based on participatory socio-economic development that is geared to the common good and to the needs of the entire population. The State must strengthen its role as guiding force of national development, lawmaker, source of public investment and provider of basic services. To meet these challenges, it must also adapt its mode of operation to take account of gender differences and cultural diversity. Respect for and the exercise of the civil, political, social, cultural and economic rights of all persons are the foundation for a new coexistence reflecting the diversity of the nation. Recognition of the identity and rights of indigenous peoples is essential for building a multi-ethnic, multicultural and multilingual nation.

31. As noted earlier, during the reporting period the execution of public spending was slow; it accelerated in the closing months of the period, but only in the education and health sectors. In housing, the effective spending rate was totally inadequate, owing to lack of access to the funds budgeted and appropriated.

32. Social funds need to coordinate their work among themselves and with other levels of government within the framework of public policies. They also need to manage resources more transparently and should be part of the Integrated System of Financial Administration and Control and the Government Auditing System. They must not act as palliatives or substitutes for the necessary reform of the public sector. In 2001, social funds will manage approximately 25 per cent of the State's social investment; this underscores the need to completely overhaul them in order to improve investment efficiency and returns. Governmental Agreement No. 310-2000 represented an effort by the Government to restructure the funds through sectoral specialization. Unfortunately, that effort has yet to yield the desired results and has proved inadequate. Moreover, with the closure of the Secretariat for Social Development, some projects that the Secretariat was implementing have been abandoned.

Education

33. The Education Plan 2000-2004 and the Social Policy Matrix reveal the Government's concern for education. A welcome development has been the process of consultation with civil society undertaken by the Ministry of Education and the Advisory Commission on Educational Reform. Those efforts need to be translated into the rapid implementation of the reform, curriculum changes and the development of teaching materials that also include appropriate contents for democratic civic education and education for participation. Teaching materials should also reflect multiculturalism and gender equity, based on the results, officially presented on 22 May 2000 at the Parliament building, of the dialogue and consultation on educational reform. Another step forward was the signing of the framework agreement and the start-up of implementation, despite some problems, of the plan for integrating communities of uprooted populations in the formal education system. I note with regret the failure to fulfil the commitment to launch a civic education programme, which is vitally important if Guatemalan society is to return to the path of tolerance and reconciliation.

34. Despite the work done through the National Programme for Educational Self-Management, primary education coverage did not meet the target set for it and there are concerns about its quality because it lacks intercultural bilingual elements and there is little supervision by the Ministry. With regard to the bilingual education programme instituted by the Department of Intercultural Bilingual Education, its dependence on international cooperation, limited coverage and lack of an appropriate teaching methodology raise doubts about its impact and sustainability.

35. The Mission welcomes the effort to focus attention on the girl child through the scholarship programme for girls in rural areas. The programme's coverage was recently expanded as a result of the introduction of peace scholarships, for which boys are also eligible. It will be important to ensure that this expansion, while welcome, does not undermine the special nature of the scholarship programme for girls, given the positive social impact of such affirmative action on education for girls and women.

36. The National Literacy Programme, launched in October, involved governmental and non-governmental

sectors in the achievement of this important national goal. The Programme suffers from methodological constraints, particularly in the absence of a specific strategy for targeting women, and budgetary problems. The creation of a support and verification commission for the literacy movement to provide follow-up for the process is a positive step, especially considering the recent criticisms voiced by various sectors of society. Growing resistance against the requirement for high school students to do literacy service has slowed the progress and undercut the potential impact of the Programme. Lastly, educational reform and literacy efforts must not detract from the key commitment to make three years of primary education universally available for children aged 7 to 12 years.

Health

37. The 2001 budget for the Integrated Health Care System is 23 per cent lower than the budget for 2000 and this will negatively affect the necessary expansion of coverage. I am also concerned about the sustainability of the system, given its over-dependence on voluntary work and international cooperation, among other things. A comprehensive evaluation of the system is pending. Although the goals of the Social Policy Matrix and the National Health Plan 2000-2004 include health care for migrant workers, the latter still have no coverage. One important step towards fulfilment of the peace agreements was the creation in late March 2001 of the National Health Council, made up of representatives from the Guatemalan Social Security Institute, the Ministry of Education and various sectors of civil society, whose function is to strengthen institutional coordination in the health services and advise the Ministry of Health.

38. Other health targets are also far from being met. In 1999, measles vaccination coverage for children was 83 per cent, insufficient to eradicate the disease and earn certification. Water supply is still unreliable in rural areas and requires a major investment in infrastructure and maintenance. The programme of access to medicines also needs to be strengthened and distribution centres set up in the country's interior. One welcome development is the start-up of school meals programmes in 16,000 schools under the Healthy Schools Plan. However, there is still a need to implement strategies for lowering the high rate of malnutrition among children under five years of age, the age group most affected by malnutrition.

39. The Ministry of Public Health and Social Welfare unveiled its national reproductive health programme aimed at providing health services that will enable men and women to enjoy a satisfactory, healthy and risk-free reproductive life. It is important that this programme be put into effect and coordinated with the comprehensive health programme for children, adolescents, older persons and the disabled and with the work of the Multisectoral Commission on the Reduction of Maternal Mortality. The programme should also reflect the content of the comprehensive health segment of the equity policy 2001-2006.

40. There has been a valuable initiative to promote social participation in the oversight of services in 48 municipalities, referred to as Municipalities Promoting Health and Peace, 16 of which have populations largely made up of resettled persons. There is a need to improve mental health care in areas affected by the armed conflict and rehabilitation programmes for the war disabled. The closure of the Secretariat for Social Development, which was in charge of building and remodelling 11 hospitals, has created uncertainty about the future of these facilities; it is to be hoped that the process will soon be reinstituted on a new footing. One of the targets of the National Health Plan 2000-2004 on which insufficient progress has been made is the use of indigenous languages in medical visits and training as part of the commitment to provide social services in languages of the indigenous peoples. The Follow-up Commission has proposed a welcome initiative which should be put into effect rapidly, namely, to design and develop an indigenous and traditional medicine plan, in consultation with the communities.

Housing

41. Recognizing the need for comprehensive housing policy that would give priority to low-income groups, the Vice-Ministry instituted a formal process of consultation and discussion with different sectors of civil society in which the final draft of a national housing and human settlements policy was produced. This is a laudable initiative which could help resolve the housing shortage, giving priority to the poorest groups. The next steps will be its adoption as State policy and the design of intersectoral and inter-institutional mechanisms to develop programmes and projects for implementing it.

42. The Guatemalan Housing Fund spent none of its budget for 2000 because it had no access to funds.

After repeated delays, in late March 2001, in response to the mobilization of potential beneficiaries, the Government pledged to schedule the disbursement of 100 million quetzales (nearly $13 million) for approved housing projects involving the construction of 5,748 housing units in 103 communities of uprooted and demobilized populations. Uncertainty as to the amount and the management of the budget for 2001 is also cause for concern. Moreover, people left homeless by hurricane Mitch are still awaiting resettlement and relations between the authorities and recipients have become polarized.

C. Sustainable productive development

43. In the search for growth, economic policy must be directed towards preventing processes of socio-economic exclusion, such as unemployment and impoverishment, and towards optimizing the benefits of economic growth for all Guatemalans. The peace agreements recognize the serious poverty and social exclusion in which most Guatemalans live as one of the structural causes of the internal armed conflict. These in turn result from, among other things, the concentration of land ownership and the low wages paid to workers. Moreover, the adverse conditions resulting from the decline in the international price for some of the country's main exports, particularly coffee, have become an additional challenge to the sustainability of the peace-building process. In October 2000, the Secretariat for Planning and Programming in the Office of the President (SEGEPLAN) began preliminary consultations on a poverty reduction strategy, a positive step that should be incorporated in a national policy for rural development and food security within the framework of the peace agreements.

44. In order both to relieve the unemployment resulting from the coffee crisis by promoting new types of production and to refinance small and medium-sized producers, it is particularly important to make progress on the fiscal front so that the country can have access to financial markets and obtain the necessary backing of the International Monetary Fund. This would also make it easier to obtain specific loans from the international financial institutions for putting the banking system back on a sound footing and combating poverty.

Labour

45. The agreements establish that a State labour policy is critical for a strategy of growth with social justice. They therefore include commitments on amending the legal framework, strengthening and decentralizing the Ministry of Labour and Social Security, providing occupational training and education, improving social security and expanding its coverage, protecting the most vulnerable categories of workers and promoting collective bargaining and consensus methods of settling labour disputes. During the reporting period, the Ministry of Labour and Social Security expanded its geographical coverage and it became easier to register trade union organizations. The period also saw an increase in wages and bonuses, a greater number of official inspections to monitor compliance with labour legislation, the promotion of hygiene and safety committees and the creation of the Office of the Workers' Ombudsman. However, other important commitments in the labour area have not been fulfilled.

46. The increase in the minimum wage and in bonuses reduced the gap between the various legal minimum wages and the price of the basic food basket and basket of basic goods and services, although the gap is still significant. The real effects of the increase are only relative, given the high degree of non-compliance found by the Ministry and the fact that workers in the informal sector, unpaid family workers and women working in private homes, among others, do not benefit. This shows the need for legal reforms to promote the formalization of the informal sector, recognize women as workers and not just as men's helpers, improve the working conditions of domestic employees and expand the Ministry's enforcement power. To date, the Congress of the Republic has not considered the amendment of labour law to guarantee women's right to work, the proposals submitted to it on making sexual harassment a crime, the amendments to the Labour Code with respect to agricultural workers and working mothers and the legislation to protect the rights of women working in private homes.

47. In the area of social consensus-building, significant developments include the re-incorporation of employers in the meetings of the Tripartite Commission on International Affairs, the creation of the Tripartite Commission on Occupational Health and Safety and the organization of hygiene and safety committees in a number of firms. The collective

agreement which settled various aspects of the serious labour dispute that arose on the banana plantations in 1999 is also significant. These efforts show that it is possible to foster different forms of dialogue among the parties to labour relations and should prompt the early implementation of a public policy of collective bargaining that is based on the full exercise of freedom of association.

48. In one highly promising development, workers and employers held consultations with a view to reaching a consensus on draft amendments to the Labour Code that would bring it into line with the provisions of ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize, and ILO Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively. Subsequent to the period covered by this report, the Congress of the Republic adopted 36 amendments to the Labour Code, which represent major progress in complying with the peace agreements and bringing domestic legislation into line with the recommendations of the International Labour Organization. Progress still needs to be made both on the amendments with regard to restrictions on civil servants' right to strike and on the rights of working women provided for in the peace agreements.

Rural development

49. The commitment to design and implement a comprehensive rural development policy that addresses the needs of the majority of the rural population living in poverty and extreme poverty has not been fulfilled. Piecemeal approaches continue to be adopted which, moreover, do not take adequate account of Guatemala's ethnic and cultural diversity. Since the timetable for 2000-2004 assigns priority to rural development issues, the Ministry of Agriculture, Livestock and Food and SEGEPLAN asked the United Nations system and the Mission for technical assistance in drafting the terms of reference for a comprehensive, inclusive public policy on rural development, which were submitted in December 2000. The National Coordinating Office of Peasant Organizations, for its part, launched a process of national consultation with its grass-roots organizations which will culminate in policy proposals to be discussed with the Government. The absence of a comprehensive, long-term vision has also tended to weaken some institutions in the sector. The Ministry itself, as well as the Land Trust Fund (FONTIERRAS) and the Presidential Unit for Legal Assistance and Dispute Settlement in Land Matters (CONTIERRA), have seen their ability to act undermined by the persistent lack of funding.

50. The weak presence of the State is another cause of underdevelopment in the most disadvantaged regions, particularly those where uprooted population groups have settled. There is a notable lack of specific proposals accessible to the rural population for promoting productive activities in the areas of agro-industrial processing, marketing, services and tourism which would generate non-agricultural employment. To reverse this situation, the State must strengthen its presence on the ground and become a promoter of development initiatives and a provider of technical assistance and financial services.

51. The uprooted population and poor people in resettlement areas are still living in conditions of social exclusion. Social and economic investments have failed to create the conditions for development and there is still a tendency to favour isolated projects and interventions over long-term policies and strategies. Lack of access to land and to legal tenure remains a serious obstacle to the reintegration of the uprooted population and part of the demobilized population. The Land Trust Fund has taken the positive step of defining procedures for settling land claims through regularization of title; it must now treat such cases as institutional commitments. It should be stressed that, with the necessary resources, the process of awarding title to the uprooted population could be completed in 2001. Pending cases involving unused land were transferred to the Land Trust Fund.

52. The Mission commends the creation of a Gender, Women and Rural Youth Unit in the Ministry of Agriculture with the task of promoting the mainstreaming of a gender perspective in the Ministry's policies, programmes and projects and the formulation of affirmative action plans that will help eliminate gender and age inequalities, and pushing for women's equal access to land ownership.

53. During the reporting period, the Rural Development Bank (BANRURAL) significantly increased its loan portfolio, from 170 million quetzales in 1995 to over 1 billion quetzales by the end of 2000. The Bank focused its focused its activities on the departments most affected by the internal armed conflict. Of all loans granted by financial institutions,

BANRURAL provided more than 80 per cent in the departments of Huehuetenango, Quiché, Petén and Sololá and over 60 per cent in Alta Verapaz, Chimaltenango and Baja Verapaz. The Mission welcomes this contribution to rural development, the move towards overcoming regional disparities and the fulfilment of the peace agreements and commends the efforts of the Bank's board of directors, which is composed of representatives of both the State and civil society.

54. The peace agreements affirmed the right of indigenous peoples to manage and administer their communal lands. The set of commitments concerning the right of indigenous communities to own and manage their land has not been fulfilled and the enactment of legislative reforms and the establishment of an agrarian and environmental jurisdiction are still pending. The indigenous and peasant representatives on the Joint Commission on Rights relating to Indigenous People's Land have drafted a preliminary bill setting up such a jurisdiction, which will serve as the basis for a broader discussion. The Joint Commission is also studying a consensus proposal for the land registry bill, whose adoption and referral to the legislative branch need to be expedited. Agrarian disputes cannot be settled unless there is progress on legal tenure and the land registry, as well as higher levels of development, all of which will be hard to achieve without the above-mentioned legislative reforms.

55. In some parts of Guatemala, indigenous groups manage their natural resources in ways derived from their world view and their understanding of the ecosystems in which they live, resulting in sustainable development practices. Failure to comply with the commitments on identity and rights of indigenous peoples means the loss of knowledge about natural resource management and has become a major source of conflict among indigenous communities, the State and environmental organizations.

D. Modernization of the democratic State

56. The genuine participation of citizens — both men and women — from all sectors of society is essential for achieving social justice and economic growth. The State must broaden these opportunities for participation and strengthen its own role as guiding force of national development. To that end, it must raise fiscal revenues and, as a matter of priority, channel public spending towards social investment. The strengthening of civilian power is an essential prerequisite for the existence of a democratic regime. The ending of the armed conflict affords an historic opportunity to renew the country's institutions so that, working in coordination, they can guarantee the rights to life, liberty, justice, security, peace and the full development of the individual.

57. Recently, important opportunities for participation have arisen in connection with the definition of some public policies, such as fiscal policy and policies for the advancement and development of women, educational reform, culture and housing. However, the commitments to create institutional mechanisms for social participation that will help develop public oversight and promote transparency in government decision-making have not been fulfilled.

Decentralization, social participation and development councils

58. The decentralization process has been implemented on three fronts: (a) institutional and financial strengthening of municipal governments; (b) organization of the system of development councils at various levels; and (c) sectoral decentralization, mainly in the areas of education, health and agriculture, although each has had a different focus and produced uneven results. The present government authorized three bodies to lead the decentralization process, which led to uncertainty and considerable delays. In early 2001, the President of the Republic announced that the decentralization process would henceforth be the responsibility of the Presidential Commissioner for the Modernization and Decentralization of the State. I hope that this important clarification will help to consolidate decentralization policy and speed up the launch of this overdue process.

59. Efforts are also needed to overcome the scarcity of resources, introduce a sound process for coordinating the government institutions involved and provide training for municipal authorities and the general public to enable them to take on new tasks as part of the decentralization process.

60. The agreements emphasize the role of the system of urban and rural development councils as an instrument for social consultation and a basic participation mechanism. With a few exceptions,

however, they continue to serve as forums for information projects funded by the Solidarity Fund for Community Development. Their activities are not governed by any coherent strategy or any concept of comprehensive development. Although some councils have adopted development plans, discussion and debate were not encouraged during their drafting. Integration of indigenous people and women in the development councils is still rare or non-existent because of discrimination and the failure to institutionalize their participation. A proactive role by the councils would encourage participation and help ensure that cooperation programmes are geared towards rural areas. In this connection, it should be mentioned that in December the Joint Commission on Reform and Participation submitted its proposals for amending the Development Councils Act and the Municipal Code. Both these proposals were looked at by the Follow-up Commission, which referred them to the executive branch. These important initiatives need to be brought before the Congress of the Republic as a matter of urgency.

61. With regard to participation by indigenous peoples and dissemination of their cultural values, one important commitment concerns access to radio frequencies through the amendment of the Radio Communications Act. In November, three community radio associations submitted a bill regulating access to and use of radio frequencies on the basis of equal opportunities. Although this legislative reform is under way and nationwide frequencies are virtually all taken, and despite the suspension of bidding mentioned in my previous report (A/55/174, annex, para. 49), on 9 April 2001, the Ministry of Communications, Infrastructure and Housing assigned use of two frequencies to the National Association for Communication, Culture, Art and Development. At the same time, it authorized this body to share the programming with non-profit foundations and community associations and communities. The associations rejected this measure, arguing that the National Association does not represent them and that the frequencies assigned belong to the State radio TGW, so that transferring their use to private individuals would use up the nationwide frequencies in State hands and render the current legislative process meaningless. The Mission is investigating the situation in order to verify compliance with the commitment given in the Agreement on Identity and Rights of Indigenous Peoples and with the recommendations of the Special Rapporteur on freedom of expression of the Organization of American States.

62. The National Women's Forum is recognized as a ground-breaking participatory and organizational process which has promoted participation by indigenous and non-indigenous women from the local level upwards and created a network that operates and has achieved legitimacy nationwide. The Forum has helped women to secure opportunities for participation in the development councils and open up channels for dialogue. However, although women have identified their needs through wide-ranging consultations, there are still constraints on their participation in forums, which have an impact on development planning. The Mission wishes to highlight the Women's Forum action plan, submitted to the Follow-up Commission, for coordinating sectoral monitoring of compliance with the commitments relating to women with the Presidential Secretariat for Women and reiterates the importance of giving fresh impetus and support to this influential consultative body.

63. Moreover, at its fifty-fifth session, the General Assembly welcomed the establishment of the Presidential Secretariat for Women as a demonstration of the Government's commitment to strengthening national machinery for the advancement of women. As part of the advisory and public policy coordination functions entrusted to it by Governmental Agreement No. 200-2000 and the guidelines deriving from the Social Policy Matrix 2000-2004, the Secretariat drew up the National Policy for the Promotion and Advancement of Guatemalan Women: Equal Opportunity Plan 2001-2006, which includes proposals from previous processes and from the National Women's Forum. The Mission welcomes the Government's readiness to comply with the proposed participatory mechanism for selecting the Secretariat and reaching consensus on the formulation of this policy, which has been endorsed as a State commitment, and hopes that its implementation will be institutionalized.

64. Recognition is due for the work done by the Office for the Defence of Indigenous Women's Rights in defending and promoting the rights of indigenous women and for the support given by international cooperation to its consolidation. I call upon the authorities to give this important institution the resources it needs to fulfil its priorities of extending its

activities to the departments of Quetzaltenango, Huehuetenango and Petén in 2001.

Tax policy

65. The Mission viewed the signing of the Fiscal Pact as a highly significant step towards compliance with the peace agreements. Although some progress has been made on taxation and other aspects which has improved tax collection by curbing tax evasion, not enough has been done to implement the commitments made in the Fiscal Pact and in the Political Agreement for Funding Peace, Development and Democracy. The need for a global approach has not been respected and the Government has failed to make progress on substantive issues such as assessment and oversight of public spending and fiscal decentralization. Unless further tax reforms are introduced, the commitment to increase the tax burden in a sustainable manner to 12 per cent by 2002 will not be met. The Mission welcomes the progress made in modernizing tax administration, reflected in the strengthening of the Tax Administration Superintendency. This body has made welcome progress on oversight and collection mechanisms, the special taxpayers' programme and the simplification and automation of tax administration, all of which are key processes that will help the peace commitments to be met.

66. I welcome the fresh efforts being undertaken in conjunction with the executive and legislative branches to move towards full compliance with the Fiscal Pact. These efforts should culminate in progress towards compliance with the Political Agreement and increased mobilization of national resources to fund peace commitments. For its part, the Ministry of Finance has submitted to the Congress of the Republic a substantial package of legal measures designed to increase the penalties available to the State to combat tax evasion and corruption.

Justice

67. In January 2000, the National Commission for Monitoring and Supporting the Strengthening of the Justice System was set up. Consisting of representatives of judicial institutions and civil society, it is the most important forum for promoting dialogue and consensus on the justice system. The most important reforms in the sector include: the setting up in 1997 of the Coordinating Forum for the Modernization of the Justice Sector; the implementation of the plan for the modernization of the judiciary (1997-2002); the adoption of the Career Judicial Service Act; the establishment of the Career Judicial Service Council and the Judicial Disciplinary Board; the implementation of the programme for the reorganization of district and municipal prosecutor's offices; the adoption of the law under which the Institute for Public Defence gained autonomy; and the adoption of the Code of Judicial Ethics. There has been an increase in public spending in the sector and it is now important to ensure the budgetary sustainability of judicial institutions, which must also improve their budget execution.

68. The peace agreements establish the need to give indigenous peoples access to justice and to recognize their customary law. Considerable efforts have been made to achieve these goals, such as the creation of community courts of the peace and justice administration centres, the appointment of translators and bilingual judges, particularly in the new courts of the peace, and the establishment of the Commission on Indigenous Affairs within the Supreme Court of Justice. Outstanding issues which the State and civil society have to address include the training of judicial personnel in multiculturalism, the introduction of cultural expertise and the need to end certain manifestations of discrimination in the administration of justice.

Public security

69. The public spending target for public security has been exceeded; however, an examination of expenditure heading reveals that more funds have been allocated for operations than for investment, which has held back the improvements needed in the infrastructure and equipment of the new National Civil Police.

70. With regard to the deployment of the National Civil Police, the new police force has 18,314 members, 6 district police stations, 27 departmental police stations, 127 stations, 343 substations and 8 mobile units and is present in most municipalities in the country. An overall assessment of its progress shows that there are still serious shortcomings in the quality of deployment which prevent the force from fulfilling its tasks properly. At the same time, both the way in which the police entrance examination is publicized and the system of postings and transfers seriously affect the ethnic and gender composition of the force,

of which only 10 per cent are women and 14 per cent are indigenous people. Apart from the fact that more than 1,600 additional police officers need to be deployed to meet the target of 20,000 laid down in the Agreement, various national authorities have stated publicly that this figure may not be enough for the force to be able to function properly. I wish to stress that the police have made valiant efforts, particularly in rural areas, to prevent lynchings, a practice that is a very serious violation of human rights.

71. There has been progress in creating and setting up specialized units. However, their incomplete territorial deployment and the lack of human and material resources has undermined their effectiveness and most of the units have yet to become fully operational. Internal control mechanisms are a challenge for the reform of the police and it is therefore essential that a comprehensive system be developed which permits effective oversight of the ethical and professional conduct of police personnel and supervision of their operational activities. Progress in this area will help increase public confidence in the new police force and legitimize it as an institution.

72. The Police Academy has continued the professional training of members of the National Civil Police. It gives them the opportunity to complete their high school diploma, and higher education services are provided under an agreement signed with Mariano Gálvez University. However, some weaknesses can still be observed in the system for publicizing the police entrance examination and in specialized and on-the-job training. There is a need to formulate police doctrine, increase the length of courses, train instructors and new commanders and develop police practices in order to enhance the operational capacities of police officers. The Mission welcomes proposals to create a career position of police instructor.

Information and intelligence

73. In the reporting period, proposals were made for promoting the formulation of rules and structures for the intelligence services, as well as for their oversight and functioning. These include the proposal to amend the Act organizing the legislative branch to create a legislative oversight committee for State intelligence agencies, and suggestions by various civic groups concerning the Civil Intelligence and Information Analysis Department of the Ministry of the Interior. It would be appropriate to coordinate these proposals and put forward without delay a law on a national intelligence system that would ensure coordination of the various structures and clearly delimit their respective functions.

74. Under the peace agreements, legislation must be adopted establishing the Civil Intelligence and Information Analysis Department. The repeal of the governmental agreement originally establishing the Department provides an opportunity to involve various social sectors in the discussion of such legislation. The Strategic Analysis Secretariat, for its part, has been active in the country's interior and has generally maintained its civilian character. However, the reluctance of some entities to provide it with information has limited its functioning. Moreover, to improve its performance, a specific law must be adopted that would enhance its legal status and the training of its members.

Armed forces

75. The process of formulating a new doctrine is continuing, with inputs from various political, social and academic sectors and covering every area related to defence policy. This process, which offers the advantage of being highly participatory, has delayed the redesign of the educational system and of the content of military training. The Mission has made a number of recommendations which I hope will help ensure that the new doctrine is consistent with the peace agreements.

76. The armed forces administrative office was dismantled by means of governmental agreements and the Military Geographical Institute was converted into the National Geographical Institute. The television frequency allocated to the armed forces was reassigned to the Office of the President of the Republic, thereby complying with the corresponding agreement. The Mission also verified partial compliance with the commitment on the munitions factory.

77. There had been a gradual reduction in the budget for the armed forces, but this trend was reversed in the 2000 financial year. The Mission found that while the budget for 2000 should have been 981 million quetzales, 1,225.4 million were actually spent. The budget allocation for 2001 is in line with the agreed reduction and the Mission hopes that 2001 will not see a repetition of the budget transfers or increases which in 2000 breached the commitment to a reduction. The

Mission is monitoring the execution of the approved budget on an ongoing basis. The redeployment of military units has continued and the reassignment of troops will enable available resources to be used more appropriately. The fact that absolutely no redeployment has taken place in the Ixil area, one of the areas most affected by the internal armed conflict, is cause for concern, however.

78. The commitment to replace the Presidential General Staff was rescheduled to the first half of 2003. Unfortunately, the new timetable for 2000-2004 did not envisage any intermediate action that might reflect gradual progress on this commitment. The gradual transfer of functions, equipment and budget from the Presidential General Staff to the Secretariat of Administrative Affairs and Security in the Office of the President will continue to be verified until the process concludes in 2003. The Mission welcomes the continuing process of training new personnel for the Secretariat.

IV. Final observations

79. The content of this report reflects the fact that, as I said earlier, much has been achieved but much remains to be done. Substantial, sustained progress on the pending agenda is essential for overcoming the profound social inequalities that still exist. Lack of equity in employment opportunities, lack of gender equity, ethnic discrimination, lack of access to basic services and the fact that large sectors of the population continue to live in poverty and extreme poverty threaten the gains and the sustainability of the peace process. Resolving that situation is the basic prerequisite for guaranteeing peace and eliminating the considerable potential for conflict that still characterizes Guatemalan society.

80. Given the current lack of progress in fulfilling the commitments made under the peace agreements, it is urgent that the different principal actors revive the spirit of the rescheduling exercise, move ahead in the search for consensus and succeed in pooling their efforts on issues of strategic importance for the consolidation of peace in Guatemala. The Government must demonstrate its political will to move ahead with the implementation of strategic commitments that will ensure the irreversibility of the peace process and help restore public confidence by allowing citizens to enjoy the benefits of peace.

81. The timetable for 2000-2004 is a new challenge for the Guatemalan peace process. Substantial support for its implementation will have to be an ongoing task for government institutions and civil society. At the same time, the international community will have to coordinate its efforts more closely and increase its technical cooperation with institutions set up as part of the peace process. All those institutions must be strengthened, especially in the country's interior where it is more urgent that the effects of peace should be felt and where they should be more tangible.

82. As I have said in previous reports, the State must mobilize greater national resources for the implementation of the agreements. To that end, tax collection must be increased by means of the consensus agreements reached in the Fiscal Pact process. I wish to encourage the Commission to Follow-up the Fiscal Pact to continue its efforts to ensure that all the commitments made are fulfilled, since that will make it possible to implement important social policies, such as those for education, housing and advancement of women, on which consensus was reached and which must be funded and set in motion as soon as possible. Nevertheless, pending the availability of increased resources, I wish to emphasize that some important commitments are still pending which do not require vast outlays of funds but whose implementation would send a clear signal that the authorities are prepared to make substantial progress in complying with the peace agreements. These include the commitments to enact implementing regulations for the Act on Personal Documentation, formulate a rural development policy, set up the Advisory Council on Security as recommended by the Follow-up Commission and, in particular, execute the 2001 budget in an appropriate manner.

83. There is a need to strengthen a number of important forums which were created by the peace agreements and still have a central role to play, in particular the Resettlement Commission and the Consultative Assembly of Uprooted Population Groups, as well as the Special Integration Commission and the Guillermo Toriello Foundation. The National Commission for Monitoring and Supporting the Strengthening of the Justice System and the Coordinating Forum also need to be strengthened and measures taken to eliminate impunity and ensure access to justice, professional excellence, speedier trials, protection of persons involved in criminal proceedings and changes in the prison system.

84. With regard to participation mechanisms, the commitment to adequately strengthen existing institutional mechanisms for social participation, such as the development councils, or establish new ones must be implemented. This will enable new forms of public oversight to be established and will promote transparency in Government decision-making. In view of the low level of participation of indigenous representatives in decision-making at the municipal and departmental levels, I particularly recommend the institutionalization of indigenous forms of organization as provided for in the respective Agreement.

85. Greater and more rapid progress must be made in the judicial reform process so that the justice system contributes to the protection of human rights and the settlement of disputes. To that end, it is essential to implement the recommendations contained in the reports of the Commission on the Strengthening of the Justice System and the Special Rapporteur on the independence of judges and lawyers.

86. Turning to the issue of justice and multiculturalism, it is important to increase the number and ensure the integration of indigenous professionals in the administration of justice. In addition, the Follow-up Commission proposed encouraging a debate on customary law. Both initiatives would represent significant progress in fulfilling the commitments made in the Agreement on Identity and Rights of Indigenous Peoples.

87. One area where implementation is considerably delayed is the reform of State intelligence agencies. To formalize their legal status as stipulated by the Follow-up Commission, progress must be made in the legislative oversight of those agencies. To that end, the status of the various institutions created by the peace agreements and dealing with intelligence and strategic analysis services should be defined by law so that their sphere of action is delimited as precisely as possible and they come clearly under the control of the Congress of the Republic.

88. Three aspects of the transformation of the armed forces are strategic for the modernization of the armed forces and the strengthening of civilian power: the adoption of a new military doctrine and the consequential changes in the educational system and the deployment of the armed forces; the transformation of military intelligence; and the replacement of the Presidential General Staff. I urge the authorities to continue to proceed as indicated in the peace agreements.

89. Given the serious deficiencies in the infrastructure and equipment of police units, comprehensive strengthening of the National Civil Police remains essential if it is to be able to discharge all its tasks properly. The frequent changes of senior police personnel are also a continuing source of institutional instability which is seriously compromising the development of a career police force. I therefore reiterate the need for the authorities to focus on the organization of a career police force, which would help increase the professionalism and effectiveness of the new National Civil Police.

90. The pending legislative agenda deserves special mention. The Congress of the Republic has a central role to play in consolidating many of the commitments made in the peace agreements, and the pending agenda is a very long one. I wish to emphasize the need for the new laws and the legislative amendments resulting from the peace agreements to be discussed and adopted as soon as possible. I reiterate my special appeal to the political forces represented in Parliament to adopt with all possible speed the pending legislation whose importance is central to the peace agreements.

91. As I have already said, the early holding of the Consultative Group meeting will enable the international community to renew its commitment and coordinate its actions in the framework of the new timetable for the implementation of the peace agreements. At the same time, the peace agenda will have to guide the actions of the United Nations system and international cooperation.

92. The peace agreements provide an historic opportunity for Guatemalan society to work together on a national agenda which provides the tools for meeting the major challenges facing the country. Speedy execution of the agreements will make it possible to improve the quality of life of Guatemala's people significantly, modernize State institutions and strengthen governance. The conclusion of agreements on specific issues between State actors and civil society will facilitate the progress and sustainability of the changes made. State authorities and civil society must make steady progress in fulfilling the rescheduled commitments. The United Nations, through MINUGUA, will continue to verify and support national efforts to build and consolidate the Guatemalan peace process and make it irreversible.